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8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11
12 In re
13 **GABRIEL TECHNOLOGIES CORP., et al.,**
14 Debtors.

Case No. 13-30340-DM
(Case No. 13-30341)

CHAPTER 11
(Jointly Administered)

15
16 **DECLARATION OF JANET D. GERTZ**
17 **IN SUPPORT OF MOTION BY**
18 **QUALCOMM INCORPORATED,**
19 **PURSUANT TO 11 U.S.C. § 1112 FOR**
20 **CONVERSION TO CASES UNDER**
21 **CHAPTER 7 OR, IN THE**
22 **ALTERNATIVE, FOR APPOINTMENT**
23 **OF A CHAPTER 11 TRUSTEE, FOR**
24 **CAUSE**

25 Date: May 10, 2013
Time: 10:00 a.m.
Court: Courtroom No. 22
26 235 Pine Street, 22nd Floor
San Francisco, CA
27 Judge: Hon. Dennis Montali
28

I, Janet D. Gertz, declare as follows:

1. I am an attorney at law duly licensed to practice before all courts of the State of California and the United States District Court for the Northern District of California. I am an associate in the law firm of Cooley LLP, counsel for Qualcomm Incorporated ("Qualcomm"),

1 judgment creditor of the above-captioned debtors and debtors-in-possession, Gabriel
2 Technologies Corp. (“Gabriel”) and Trace Technologies, LLC (“Trace” and together with
3 Gabriel, the “Debtors”).

4 2. I make this Declaration in support of Qualcomm’s Motion, Pursuant to 11 U.S.C.
5 § 1112, for Conversion to Cases under Chapter 7, or in the Alternative, for Appointment of a
6 Chapter 11 Trustee, for Cause (the “Motion”). The facts set forth herein are personally known to
7 me and, if called as a witness, I could and would competently testify thereto. All capitalized
8 terms used but not defined herein shall have the meaning ascribed to them in the Memorandum of
9 Points and Authorities in Support of the Motion.

10 3. I have reviewed the case files including certain discovery that was produced to
11 Cooley in its capacity as Qualcomm’s counsel during the course of the proceedings in the
12 Qualcomm Lawsuit.

13 4. **Exhibit 1** is a true and correct copy of a January 2010 e-mail exchange between
14 Maurice “Mo” Shanley, former CFO of Gabriel, and John Hall, a member of Gabriel’s Board of
15 Directors, received in production.

16 5. **Exhibit 2** is a true and correct copy of a late 2009 e-mail exchange between Mr.
17 Shanley and Mr. Hall, also received in production.

18 6. I accessed certain public records on Lexis.com which may be regulated by, among
19 other laws, the Drivers’ Privacy Protection Act of 1994 and the Gramm-Leach-Bliley Act. Using
20 a “Litigation” permissible use setting, I was able to access certain records about Byron Nelson
21 which reflected that Nelson serves as the officer or director of numerous entities, several of which
22 have had their state charters suspended/forfeited or permanently revoked and/or in delinquent
23 status. Mr. Nelson is also reflected to be (i) the secretary of Riviera Finance of Oregon, Inc.; (ii)
24 a director of Riviera Finance of Phoenix, Inc.; and (iii) the secretary of Riviera Finance, Inc. In
25 order to avoid disclosure of potentially personally identifiable information, the specific records I
26 accessed have not been attached hereto, but I will make them available to the Court for *in camera*
27 review upon request.

28

1 7. On March 12, 2013, Cooley personnel accessed the Delaware Secretary of State's
2 website at www.corp.delaware.gov, to perform an entity search of Gabriel. A true and correct
3 copy of the information Cooley received about Gabriel is attached to the Request for Judicial
4 Notice ("RJN"), filed concurrently herewith, as **Exhibit 32**.

5 8. Also on March 12, 2013, Cooley personnel accessed the Nevada Secretary of
6 State's website at nvsos.gov, to perform an entity search of Trace. A true and correct copy of the
7 information Cooley received about Trace is attached to the RJD, filed concurrently herewith, as
8 **Exhibit 33.**

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct. Executed this 3rd day of April, 2013, at San Diego, California.

Janet D. Gertz